

NULLITY

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DETERMINING IF YOU MEET THE GROUNDS FOR NULLITY

DETERMINING IF YOU MEET THE GROUNDS FOR NULLITY

The same paperwork is used to file for a nullity of marriage, dissolution or legal separation. The difference is indicated by the boxes you mark.

You must determine if you meet the grounds for nullity. The following information is provided to assist you in making that determination. If you are uncertain as to your grounds you must consult with an attorney or ask the facilitator for assistance.

1. GROUNDS FOR NULLITY:

- a. Petitioner's age at time of marriage, Family Code Section 2210(a)
- b. Prior existing marriage, Family Code Section 2210(b)
- c. Unsound Mind, Family Code Section 2210(c)
- d. Fraud, Family Code Section 2210(d)
- e. Force, Family Code Section 2210 (e)
- f. Physical incapacity, Family Code Section 2210(f)

A copy of these code sections is provided on the next page.

ATTACH ONE PAGE COPY OF FC 2210

GENERAL INFORMATION

GENERAL INFORMATION

1. **MUST BE TYPED:** Documents must be typed and submitted the original plus two copies.
2. **FILING FEE:** \$213.50 cash, check or money order or approved fee waiver. The Clerk's office is not equipped to accept ATM or credit card payments at this time.
3. **SAME DOCUMENTS AS DISSOLUTION:** This manual outlines the minor differences in filing for nullity versus filing for dissolution. Use the dissolution manual to prepare and file your paperwork.
4. **AFTER DEFAULT IS ENTERED - MUST SET HEARING DATE:** After the Respondent has been served and 30 days has passed with no Response filed by Respondent – you must request a hearing date (the Notice of Hearing form) when you file your Request to Enter Default. A Nullity cannot proceed to Judgment without a hearing .

You are required to serve the Respondent with the Notice of Hearing.

5. **THE HEARING:** The hearings are held on Fridays at 9:00 a.m., however, you must obtain a date from the calendar clerk BEFORE your hearing can be put on calendar.

At the hearing the Judge will ask you questions regarding the grounds for the Nullity. If the Judge finds that the grounds have been met and grants the Nullity, your nullity is final on the day the judgment is filed.

6. **IF THE RESPONDENT FILES A RESPONSE TO YOUR PETITION:**
If the Respondent files a Response to your Petition for Nullity you can file an At-Issue Memorandum (local form) to get a court date.

Type the At-Issue Memorandum (local form) in the computer and print it out. The Proof of Service must be completed prior to filing.

Submit the original and two copies to the Clerk for filing.

The Calendar Clerk will mail Notice of Trial to you and Respondent giving you the time/date of the hearing.

You must attend the hearing whether Respondent attends or not.

7. **FINAL DOCUMENTATION:** The final judgment in the nullity is prepared in the same manner described in the dissolution manual. The only difference is in the boxes that indicate Nullity (instead of dissolution).

PREPARING THE NULLITY FORMS

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1. **FORMS ARE THE SAME AS FOR DISSOLUTION:** Using Volume 2, Completing New Dissolution, prepare the documents as required. The following forms will be needed to file a new petition:

FL-100, Petition
FL-110, Summons
FL-115, Proof of Service of Summons
FL-155, Financial Statement (Simplified) OR
FL-150, Income & Expense Declaration

Blank Forms to serve on Respondent:

FL-120, Response
FL-155, Financial Statement (Simplified) AND
FL-150, Income & Expense Declaration

2. **DIFFERENT BOXES TO MARK ON PETITION FOR NULLITY:**

Make sure you mark the Nullity of Marriage box on the front of the form.

Item #6d – must be marked and one of the six grounds must be marked.

3. **AFTER YOU FILE YOUR PETITION FOR NULLITY:** Have the Respondent served with the Petition and other appropriate documents as outlined in Volume 2, Completing New Dissolution.
4. **RESPONDENT HAS 30 DAYS TO FILE A RESPONSE:** Respondent will have 30 days from the date of service to file a Response as outlined in Volume 2, Completing New Dissolution.
5. **ENTERING DEFAULT OF RESPONDENT IF NO RESPONSE FILED:** On the 31st day you may file the Request to Enter Default and Notice of Hearing form.

Prepare the Request for Entry of Default and Notice of Hearing.

The Notice of Hearing form is available at the Clerk's office or from the Facilitator.

You must obtain a hearing date prior to completing the Notice of Hearing form. You can do this by calling the Court's Calendar Clerk at 749-7600, #6 then #7.

The Hearing will be held on a Friday at 9:00 a.m. Insert the date and time on your Notice of Hearing prior to filing.

You must have a copy of the Notice of Hearing mailed to the Respondent and have the person serving complete a Proof of Service by Mail.

You must also complete the following forms prior to the hearing or trial:

FL-140, Declaration of Disclosure

FL-141, Declaration Regarding Service of Declaration of Disclosure

6. **YOU MUST ATTEND THE HEARING:** You must attend the hearing to complete your nullity and obtain judgment. The judge will ask you questions regarding the grounds for the nullity. If the Judge grants the nullity it will be effective on the day the judgment is filed.

If you fail to attend the hearing, it will be dropped from calendar and you will have to complete the Notice of Hearing process again.

7. **RESPONSE FILED BY RESPONDENT:** If the Respondent files a Response to your Petition you can file an At-Issue Memorandum (local form) to obtain a trial date.

Complete the At-Issue Memorandum to include having someone, other than yourself, complete the Proof of Service By Mail on the second page.

Submit the original and two copies of the At-Issue to the Clerk for filing.

The Calendar Clerk will set the matter for trial and send you a Notice of Trial.

You must attend this hearing to complete your nullity.

You must also complete the following forms prior to the hearing or trial:

FL-140, Declaration of Disclosure

FL-141, Declaration Regarding Service of Declaration of Disclosure

8. **AFTER THE HEARING WHETHER BY DEFAULT OR BY TRIAL:** You must complete the Judgment with appropriate attachments to finalize your nullity.

SAMPLE DOCUMENTS

Petition 2 pages

Summons, 2 pages

Proof of Service of Summons, 2 pages

Financial Statement (Simplified) 2 pages

Income & Expense 4 pages

Response, 2 pages

At Issue Memorandum, 2 pages

Request for Entry of Default, 2 pages

Notice of Hearing 1 page

Declaration of Disclosure, 1 page

Declaration re Service of Declaration of Disclosure, 1 page

Judgment, 2 pages

Notice of Entry of Judgment